

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

07 DEC 26 AM 10:57

UNITED STATES OF AMERICA,

Plaintiff,

v.

Martin NUNEZ

Defendant.

Magistrate Case No. _____

BY: *PM*

DEPUTY

COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section 1326


Attempted Entry After

Deportation

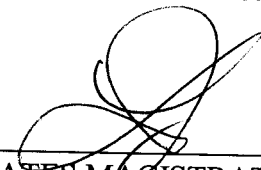
The undersigned complainant being duly sworn states:

On or about **December 21, 2007** within the Southern District of California, defendant **Martin NUNEZ**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the **Otay Mesa Port of Entry**, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs
and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE THIS **26th** DAY OF
December, 2007.


UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

I, United States Customs and Border Protection (CBP) Enforcement Officer Michael Pederson, declare under penalty of perjury the following to be true and correct:

On December 21, 2007 at approximately 12:20 PM, **Martin NUNEZ**, the Defendant, applied for admission to the United States at the **Otay Mesa Port of Entry**, as a passenger of a vehicle driven by his sister. Defendant presented his California Identification Card, and claimed US Citizenship to a CBP Officer. Upon further questioning by the CBP Officer Defendant, began to stutter and then stated that he was born in San Jose, California. The CBP Officer suspected that Defendant was making an Oral False Claim to United States Citizenship and referred him and the other occupants of the vehicle to the secondary area for further inspection.

During secondary inspection, a CBP Officer queried Defendants' fingerprints in the Integrated Automated Fingerprint Identification System (IAFIS) and Automated Biometric Identification System (IDENT) reflecting Defendant was a citizen of Mexico, having been previously deported.

Defendant was advised of his Miranda rights and agreed to answer questions without counsel. Defendant admitted to claiming US Citizenship to the primary officer, and that he was intending to travel to San Jose, Ca. to be with his family. Defendant also admitted to being a citizen of Mexico, without any rights or entitlements to either; enter, pass through, or reside in the United States. Defendant further admitted that he had been deported by an Immigration Judge from the United States to Mexico in October of 2000, and that he has neither applied for nor received permission to legally reenter the United States from the United States Attorney General or the Secretary of Homeland Security.

Further queries in the Immigration Central Index System (CIS) and the Deportable Alien Control System (DACS) confirmed the Defendant was found to be deportable by an Immigration Judge on October 17, 2000 and physically removed to Mexico through the San Ysidro Port of Entry on October 23, 2000. Immigration records indicate the Defendant has neither applied for nor received permission to legally reenter the United States from the United States Attorney General or the Secretary of Homeland Security.

EXECUTED ON THIS 21st DAY OF December 2007 AT 6:50 PM.

 #16151
Michael Pederson / CBP Enforcement Officer

On the basis of the facts presented in the Probable Cause Statement consisting of (01) page(s), I find probable cause to believe that the defendant named therein committed the offense on **December 21, 2007**, in violation of Title 8, United States Code, Section 1326.


MAGISTRATE JUDGE

12/22/07 - 350 PM
DATE / TIME